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November 16, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re/ Application of June Kaplow,
Thomas Haws, Marie Rosier,
and Patrice Denefle
Application No. 09/823,119
Filed March 30, 2001

Examiner: J.L. Epps-Ford, Ph.D.
Art Unit: 1635
Confirmation No. 9257

NUCLEAR FACTOR KB
INDUCING FACTOR

Attorney Docket No. P23,461-A USA

DECLARATION UNDER 37 CFR §1.131

Sir:

I, Thomas Haws, hereby declare as follows:

1. I am a United States citizen. I was an employee of Rhone-Poulenc Rorer Inc. (now known as Aventis Pharmaceuticals Inc.), working in the United States prior to and during the discovery of the present invention claimed in U.S. Patent Application No. 09/823,119.

2. I am an inventor of the subject matter claimed in the above-identified patent

application.

3. I am aware that Sugano et al., Online EMBL Database; "Homo sapiens cDNA FLJ20177 fis, clone COL09966, highly similar to Y08136 H", Accession No.: AK000184, has been cited as prior art by the Examiner in the Office Action, dated November 17, 2003, with respect to Claims 1 and 3 of the above-identified application. Sugano et al. was submitted to GenBank on February 15, 2000.

4. This declaration is to establish completion of the invention in the above-identified application in the United States at a date prior to February 15, 2000.

5. Prior to February 15, 2000, I completed my invention as described and claimed in the subject application in this country, as more particularly detailed below:

a. Prior to February 15, 2000, having earlier conceived of the subject matter now being claimed, a Record of Invention (ROI) form entitled "The cloning and characterization of two alternatively spliced genes encoding human 'acid' sphingomyelinase phosphodiesterase 3a herein referred to as clone 7a (short) and clone 14b (long)" was prepared. The ROI included a detailed description of the invention now being claimed in the above-identified patent application, including the nucleotide sequence of clone 14b (see Section 2 of ROI). This form was submitted to the Patent Department. The Patent Department assigned a file number and date-stamped the submission form prior to February 15, 2000. A copy of the ROI and associated documents listed in Section 2 of the ROI, with the dates redacted, are attached hereto as Exhibit A.

b. Exhibit A provides details of the features and elements of the claimed invention. More specifically, they describe a nucleotide sequence disclosed in the presently claimed application as "NFIF 14b" or SEQ ID NO:3 (see also Figure 3). Of the 1362 nucleotides of SEQ ID NO:3, 1361 are identical to nucleotides 72-1433 of Sugano et al. Exhibit B shows an alignment between these two nucleic acids.

6. As the person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Inventor: Thomas Haws

Signature: 

17-Nov-04
Date

Residence: Wilmington, DE

Citizenship: USA